

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 212 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

HEIRS OF DECEASED CJ.SINGAPURIGAURIBEN WD/O CJ SINGAPURI

Versus

STATE OF GUJARAT

Appearance:

MR ARUN H MEHTA for Petitioners
MR UMESH TRIVEDI, AGP, FOR HM BHAGAT & CO
for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 16/02/98

ORAL JUDGEMENT

The grievance of the petitioners is that the conveyance deed referred to in the petition which was sent for registration has not been returned to them or to any of them on behalf of all. It has been, therefore, prayed in the petition that the respondents and more

particularly respondent No. 3 be directed to return the deed of conveyance referred to in the petition to the petitioners or to any one of them on behalf of the petitioners.

2. Ld. Advocate Shri A.H. Mehta appearing for the petitioners has submitted that in pursuance of litigation referred to in the petition and consent terms arrived at amongst the parties referred to in the petition the deed of reconveyance of property referred to in the petition was presented for registration on 11.4.1985 before respondent No. 3. It has also been submitted by Shri Mehta that after registration of the said deed, it ought to have been returned by respondent No. 3 but as said deed has not been returned to any of the petitioners, the petitioners have been constrained to approach this Court. Ld. Advocate Shri Mehta has further submitted that to the best of knowledge and belief of the petitioners no action under Sec. 32A of the Bombay Stamp Act, 1958 (hereinafter referred to as the Act) has been initiated by any of the respondents and, therefore, there is no justification in detaining the conveyance deed by respondent No. 3.

3. In pursuance of the notice issued by this Court, an affidavit-in-reply has been filed by Shri K.G. Soni, Dy. Inspector General of Registration, Gujarat State stating that as per provisions of Sec. 32A of the Act, the instrument of conveyance presented for registration under the provisions of Registration Act 1908 can be referred to the Collector if the officer registering the instrument or any persons referred to in Sec. 33 of the Act has reason to believe that the consideration set forth in the deed does not approximate to the market value of the property which is the subject-matter of such instrument. It has been further submitted in the reply that it is open to the concerned authority to retain the document till procedure laid down in Chapter III of the Act is completed.

4. Ld. A.G.P. Shri Trivedi appearing for the respondents has submitted that as per judgment delivered in S.C.A. No. 3004/86 by this Court, it is open to respondent No. 3 to retain the original document so as to enable the concerned authority to take appropriate proceedings under provisions of Chapter III of the Act. A copy of the judgment referred to hereinabove has been annexed to the affidavit-in-reply of the Deputy Inspector General of Registration. Ld. Advocate Shri Trivedi has submitted that if the petitioners are desirous of having a copy of the document submitted by them for the purpose

of registration, upon giving an appropriate application to respondent No. 3 and upon payment of appropriate charges, they shall be furnished a copy of the said document.

5. Ld. AGP Shri Trivedi has submitted that no application has been given by any of the petitioners for getting a certified photocopy of the conveyance deed which has been submitted to respondent No.3 for the purpose of registration. In the circumstances, he has stated that if an appropriate application is given by the petitioners or any of them, a certified photocopy shall be furnished to the concerned petitioner upon payment of necessary charges.

6. I have heard the learned advocates and upon perusal of the relevant record it appears that the respondent authorities did have a right to retain the original conveyance deed for the purpose of initiating proceedings under the provisions of Chapter III of the Act. It however appears that during pendency of the petition and perhaps because of the said reason, no action has been taken in pursuance of Sec. 32A of the Act till today. It has been submitted by Ld. AGP Shri Trivedi that as the petition was pending before this Court, the respondent authorities had not taken any action in pursuance of the provisions of Sec.32A of the Act.

7. In the above referred circumstances, it would be just and proper to direct the respondent authorities to decide whether they would like to initiate any proceedings under provisions of Sec. 32A of the Act. It is therefore directed that if the respondents do not desire to take any action under provisions of Sec.32A of the Act, the conveyance deed shall be returned to any of the petitioners within a period of 30 days from the date of receipt of this order by respondent No. 3. It will be however open to respondent No. 3, if permissible under law, to initiate proceedings under sec. 32A of the Act in accordance with law. If the said proceedings are initiated, it will be open to respondent No.3 to retain original copy of the conveyance deed with him till the proceedings are concluded. It is also directed that if an application for a certified copy is given to respondent No.3 by any of the petitioners, certified copy of the document shall be given by respondent No.3 to the concerned petitioner within a period of fortnight from the date of receipt of such an application in accordance with law. As substantial time has passed I am sure that in the event of initiation of proceedings under Sec. 32A of the Act, the respondent authorities shall conclude the

proceedings within a period of 3 months from the date of receipt of the writ from this Court.

8. In view of the above direction, this petition is allowed to the above extent. Rule is made absolute with no order as to costs. Direct service permitted.

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